

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Jacqueline Zink,

Plaintiff,

VS.

Thomas Cade Garris

Defendant.

Case No. 2:19-cv-00498-DCN

**CONSENT MOTION
FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT**

Pursuant to Rules 15 and 20 of the Federal Rules of Civil Procedure, Plaintiff, with the consent of Defendant Thomas Cade Garris, respectfully moves this Court for leave to amend the Complaint to join Laura Kappel, both individually and as Personal Representative for the Estate of William Kappel, Jr., as a plaintiff in this matter, and C&L Travel, Inc. d/b/a Mynt, Timothy Gregowicz, and Coast, LLC d/b/a Coast Bar & Grill as defendants. In support of this motion, Plaintiff respectfully submits the following:

1. On February 20, 2019, Plaintiff filed her original Complaint alleging claims of negligence, negligence *per se*, and gross negligence against Defendant Thomas Cade Garriss arising from a fatal collision that occurred in downtown Charleston, South Carolina on January 26, 2019. Dkt. No. 1.
2. On March 22, 2019, Defendant Garriss timely filed his Answer to Plaintiff's Complaint. Dkt. No. 6.
3. On May 9, 2019, the Court issued a Consent Amended Scheduling Order that set a July 18, 2019 deadline for the amendment of pleadings. Dkt. No. 12.

4. Since the issuance of the Court's original scheduling order, the Parties have diligently conducted formal and informal discovery in this case, from each other and from third-parties, including by numerous subpoenas and written and deposition discovery. In so doing, Plaintiff has uncovered new, material information about Defendant's whereabouts and the series of events that occurred in downtown Charleston in the hours preceding the fatal collision.

5. A copy of the proposed First Amended Complaint is attached hereto as Exhibit A. Defendant has consented to the amendments contained therein, and the Court should "freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2).

6. While Rule 15 sets forth the proper procedure for the amendment of pleadings between the same parties, Rule 21 governs the addition of parties through such amendments. Fed. R. Civ. P. 21 ("On motion, or on its own, the court may at any time, on just terms, add or drop a party.").

7. Here, the joinder of additional plaintiffs and defendants to this case is justified. Laura Kappel's individual claims, as well as those she seeks to bring on behalf of her deceased husband's estate, all arise out of the same occurrence or series of occurrences from which Plaintiff's original claims arose, *i.e.* the series of events that occurred in downtown Charleston on January 25-26, 2019, in the hours leading up the fatal collision. Likewise, Plaintiff's new claims against the proposed defendants all arise out of the same occurrence or series of occurrences from which her original claims arose.

8. Lastly, like the claims Laura Kappel seeks to bring in this case, all of Plaintiff's new claims will assert relief jointly and severally with respect to Defendant and other defendants she seeks to join. And were the Court to grant the motion and allow Plaintiff to join these additional parties, every question of law or fact that will bear on liability in this case will be

common to each Plaintiff.

WHEREFORE, with Defendant's consent, Plaintiff respectfully requests the Court grant her leave to file the First Amended Complaint exhibited hereto to join additional parties and claims to this case.

Respectfully submitted,

July 18, 2019

**BY: RICHARDSON, PATRICK, WESTBROOK &
BRICKMAN, LLC**

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ATTORNEY FOR THOMAS CADE GARRIS

CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2019, I caused the foregoing document to be served upon all counsel of record by operation of the Court's electronic filing system (CM/ECF).

/s/ D. Charles Dukes
D. Charles Dukes (Fed. I.D. # 11751)